

<u>Locality</u>	<u>Azimuth</u>	<u>Path Name</u>	<u>Az Lat.</u>	<u>Az Long.</u>	<u>Status</u>
/ Fifth Avenue	28.047	1025 Fifth Avenue	40-46-46.5	73-7-42	- N
767 Fifth Avenue	203.488	335 Madison Avenue	40-45-13	73-58-43	P
767 Fifth Avenue	244.257	25 West 54th Street	40-45-42.5	73-58-38	P

<u>Locality</u>	<u>Azimuth</u>	<u>Path Name</u>	<u>Az Lat.</u>	<u>Az Long.</u>	<u>Status</u>
Jnehenge	203.754	Riviera	40-47-02	74-00-21.5	.

<u>Locality</u>	<u>Azimuth</u>	<u>Path Name</u>	<u>Az Lat.</u>	<u>Az Long.</u>	<u>Status</u>
Vindsor Court	89.970	200 East 32nd Street	40-44-41	73-58-47.5	N



PEPPER & CORAZZINI

L. L. P.

ATTORNEYS AT LAW

200 MONTGOMERY BUILDING

1776 K STREET, NORTHWEST

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L. CHARLES KELLER \*

MICHAEL J. LEHMKUHL \*

SUZANNE C. SPINK \*

\* NOT ADMITTED IN D.C.

May 4, 1995

**BY COURIER**

Federal Communications Commission  
Feeable Correspondence  
P.O. Box 358305  
Pittsburgh, PA 15251-5305

Re: Liberty Cable Co., Inc.  
Request for Special Temporary Authority  
20 West 64th Street (One Lincoln Plaza)  
FCC File No. 708778, Call Sign WNTM210

Dear Sir or Madam:

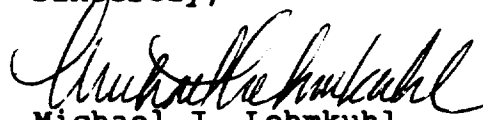
Transmitted herewith, on behalf of Liberty Cable Co., Inc. ("Liberty") is an original and one (1) copy of a request for special temporary authority ("STA") for the above referenced facility.

Enclosed is a check made out to the Federal Communications Commission in the amount of \$45.00 to cover the necessary filing fees.

Questions with respect to this matter should be referred to the undersigned.


Sincerely,

001

  
Michael J. Lehmkuhl  
Attorney for  
Liberty Cable Co., Inc.

Enclosures

cc: Mr. Michael Hayden (FCC, Fed Ex)  
Arthur H. Harding, Esq. (counsel for Time Warner)  
Mr. Behrooz Nourain

Federal Communications Commission	
Date	96-41 17
Identification	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter	

FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**

Approved by OMB  
3060-0589  
Expires 2/28/97

PAGE NO. 1 OF       

(RESERVED)

SPECIAL USE

FCC/MELLON MAY 04 1995

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0   1   3   3   6   9   6   8   0   2		\$ 45 • 00
(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)		
Liberty Cable Co., Inc.		cc: Michael J. Lehmkuhl, Esquire Pepper & Corazzini, L.L.P.
(4) STREET ADDRESS LINE NO. 1	1776 K Street, N.W., Suite 200	
215 East 95th Street, Suite 1A	Washington, DC 20006	
(5) STREET ADDRESS LINE NO. 2	(202) 296-0600	
(6) CITY	(7) STATE	(8) ZIP CODE
New York	NY	10028
(9) DAYTIME TELEPHONE NUMBER (Include area code)	(10) COUNTRY CODE (if not U.S.A.)	
(212) 891-7770		

**ITEM #1 INFORMATION**

NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY			
(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE	(14A) PAYMENT TYPE CODE		(15A) QUANTITY	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14		
WNTM210		P	A	O	M	1	\$ 45.00
(17A) FCC CODE 1		(18A) FCC CODE 2					
(19A) ADDRESS LINE NO. 1		(20A) ADDRESS LINE NO. 2		(21A) CITY/STATE OR COUNTRY CODE			

**ITEM #2 INFORMATION**

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR				FCC USE ONLY	
(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE		(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14
					\$
(17B) FCC CODE 1		(18B) FCC CODE 2			
(19B) ADDRESS LINE NO. 1		(20B) ADDRESS LINE NO. 2		(21B) CITY/STATE OR COUNTRY CODE	

**CREDIT CARD PAYMENT INFORMATION**

MASTERCARD/VISA ACCOUNT NUMBER:

☐ Mastercard

EXPIRATION DATE:

☐ Visa

(23) I hereby authorize the FCC to charge my VISA or Mastercard

AUTHORIZED SIGNATURE

DATE

fcl

**Special Temporary Authority**  
**FCC File No. 708778**  
**OFS Station WNTM210<sup>1/</sup>**

WNTY377

Liberty Cable Co., Inc. ("Liberty") respectfully requests special temporary authority pursuant to Section 94.43 of the Commission's Rules to operate an 18 Ghz operational-fixed microwave service ("OFS") station at 20 West 64th Street (One Lincoln Plaza), NY, NY. Given the extraordinary circumstances regarding the need for service, any delay in the institution of temporary operation would seriously prejudice the public interest.

Pursuant to Section 94.43(c) of the Commission's Rules, the following is submitted:

1. Name, Address and Citizenship of Applicant

Liberty Cable Co., Inc.  
215 E. 95th Street  
New York, NY 10128  
ATTN: Behrooz Nourain

New York Corporation

2. Need for Special Action

740-09

<b>GRANTED</b>	
SEE ATTACHED: <u>1199</u>	
EFFECTIVE	VALID THROUGH
<i>Michael S. Kelly</i>	
BY: CHIEF, MICROWAVE BRANCH	

On November 7, 1994 (File No. 708778), Liberty filed the above-referenced application to modify its 18 GHz station at One Lincoln Plaza. It was later amended on December 22, 1994 and March 21, 1995. Liberty's application in File No. 708778 proposes to add a total of four new microwave paths. The original public notice period expired for this application on January 8, 1995, but after many months, the subsequent amendments have not yet appeared. Grant of the application has been severely hampered because of processing delays and because of a petition to deny filed by Time Warner Cable of New York and Paragon Cable of Manhattan (collectively, "Time Warner").

Liberty is a private cable or SMATV operator serving approximately 30,000 subscribers who live mainly in buildings in the New York metropolitan area. In the vast majority of cases, Liberty provides service pursuant to the Commission's action in Operational Fixed Microwave Service (Video Distribution System), 6 FCC Rcd. 1270 (1991) ("the 18 GHz Order") through microwave channels in the 18,142 - 18,580 band ("the 18 GHz band"). When the 18 GHz Order granted private cable operators access to the 18 GHz band, the Commission voiced its conviction that the public interest was well served by allowing competition in the video services marketplace through wireless cable operators. The Commission said:

<sup>1/</sup> The applications under File No. 708778 were originally filed under call sign WNTT489. Since that time, the Commission has consolidated all previous call signs for the One Lincoln Plaza site under call sign WNTM210.

After carefully reviewing the record, we conclude that adoption of this proposal, ..., will promote the public interest by encouraging competition in the video distribution marketplace. The need for such action is well documented. This Commission recently conducted a review of marketplace developments in the video distribution industry in which we concluded that cable systems possess a disproportionate share of market power and, therefore, are capable of engaging in anti-competitive conduct. In these circumstances, competition provides the most effective safeguard against the specter of market power abuse. As competition from alternative multichannel providers such as second competitive cable operators, wireless cable multi-point distribution services, SMATV systems, and direct broadcast satellite ("DBS") emerges, we find that it would serve the public interest to enhance their competitive potential. 6 FCC Rcd. at 1271, para. 9.

The Commission also said:

In conclusion, cable systems increasingly dominate the multichannel video delivery services, resulting in criticism of the industry and complaints of anti-competitive conduct. Although rival multichannel providers are emerging in the marketplace, we recognize the need for action designed to encourage these operators to enter the market and to increase their market viability. To improve the competitive potential of alternative multichannel providers eligible to hold licenses in the Operation-Fixed Microwave Service, we take action in this proceeding permitting the use of the 6 MHz wide, point-to-point channels in the 18 GHz band for the distribution of video entertainment material. We also amend our rules to eliminate the restriction on the number of channels that may be assigned for this purpose. This action serves the public interest by encouraging the growth of competitive alternatives to cable systems and by providing consumers with a diverse range of video distribution service. In addition, the action taken herein furthers the best interests of the public by promoting spectrum efficiency and increasing the flexibility of licenses. 6 FCC Rcd. at 1272, para. 16.

Furthermore, in its 1994 report to Congress on the status of competition in this marketplace, the Commission makes clear that little has changed in the way of competition; cable is still king. In sum, the public interest is well served by the promotion of competition by wireless cable operators in the video services marketplace.

The Commission action in opening the 18 GHz band to wireless cable operators has achieved its goal in that it has stimulated competition to incumbent cable monopolists. Liberty is competing head-to-head with Time Warner in Manhattan using the 18 GHz band. To compete effectively with Time Warner, Liberty must convert



buildings from Time Warner's service to Liberty's service after subscribers in those buildings have elected to switch from Time Warner to Liberty. If Liberty cannot meet its potential customers' demand for its service, those potential customers will cancel their contracts with Liberty and remain with Time Warner. It is hard to blame them.

A series of occurrences where Liberty fails to deliver its service within 30 days and where potential customers cancel their subscriptions to Liberty's service will immeasurably damage Liberty's business and reputation. Of course, it will also greatly damage the Commission's ability to fulfill its goal of bringing competition to the video marketplace, at least in the short term in Manhattan.

Time is, therefore, of the essence. Any further delay in the consideration of the aforementioned applications is a disservice to the public interest because it seriously undermines Liberty's ability to deliver service, to compete and to be economically viable. Delay gravely threatens Liberty's ability to remain in business. Time Warner realizes this fact and has filed a petition to deny grant of the aforesaid applications. Time Warner's petition has seriously hampered a timely grant of the application.

Liberty fully supports Time Warner's right to voice its objections to Liberty's applications and to have the Commission decide its petition to deny. However, Liberty believes that the Commission must strike a balance between Time Warner's right to be heard on its objections with the public's right to receive service in a timely manner and the public's right to the lower prices which competition brings. Liberty believes that such a balance can be struck if the Commission conditionally grants the instant STA subject to the Commission's decision in the Time Warner petition to deny. Since Liberty's applications are in technical order, and since Time Warner has not challenged Liberty's applications on a technical basis, and since the conditional grant of the STA requested herein will not prejudice in any way Time Warner's right to be heard on its objections to the Liberty applications or the Commission's ability to decide the petition to deny, Liberty submits that the institution of an STA as requested herein is very much in the public interest and should be granted immediately.

### **3. Type of Operation**

Fixed transmission of video and audio signals in the 18 GHz band.

### **4. Purpose of Operation**

The equipment will be used to distribute applicant's own products or services, including video entertainment programming, to private cable buildings on frequencies in the 18,142-18,580 MHz band.

**5. Time and Date of Operation Desired**

Liberty requests authority for twenty-four (24) hour operation pending action on the application for license and requests that such authority begin on the tenth day following the filing of this request for special temporary authority.

**6-12. Technical Information**

Liberty will operate the station in conformance with the technical specifications outlined in the referenced application(s).

Liberty certifies that no party to the application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, codified at 21 U.S.C. Section 862.

Please address all correspondence regarding this matter to Liberty's counsel, Michael J. Lehmkuhl, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 as well as the undersigned.

Respectfully submitted,



Behrooz Nourain  
Director of Engineering

Date: May 3, 1995

PEPPER & CORAZZINI

L. L. P.

ATTORNEYS AT LAW

200 MONTGOMERY BUILDING

1776 K STREET, NORTHWEST

WASHINGTON, D. C. 20006

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SUZANNE C. SPINK \*  
\* NOT ADMITTED IN D.C.

GREGG P. SKALL  
E. THEODORE MALLYCK  
OF COUNSEL  
FREDERICK W. FORD  
1909-1986

TELECOPIER (202) 296-5572  
INTERNET PEPCOR@COMMLAW.COM

May 4, 1995

**BY COURIER**

Federal Communications Commission  
Feeable Correspondence  
P.O. Box 358305  
Pittsburgh, PA 15251-5305

Re: Liberty Cable Co., Inc.  
Request for Special Temporary Authority  
1692 Third Avenue (Normandie Court)  
FCC File No. 708779, Call Sign WNTM385

Dear Sir or Madam:

Transmitted herewith, on behalf of Liberty Cable Co., Inc. ("Liberty") is an original and one (1) copy of a request for special temporary authority ("STA") for the above referenced facility.

Enclosed is a check made out to the Federal Communications Commission in the amount of \$45.00 to cover the necessary filing fees.

Questions with respect to this matter should be referred to the undersigned.

Sincerely,



Michael J. Lehmkuhl  
Attorney for  
Liberty Cable Co., Inc.

Enclosures

cc: Mr. Michael Hayden (FCC, Fed Ex)  
Arthur H. Harding, Esq. (counsel for Time Warner)  
Mr. Behrooz Nourain

**Special Temporary Authority**  
**FCC File No. 708779**  
**OFS Station WNTM385<sup>1/</sup>**

Liberty Cable Co., Inc. ("Liberty") respectfully requests special temporary authority pursuant to Section 94.43 of the Commission's Rules to operate an 18 Ghz operational-fixed microwave service ("OFS") station at 1692 Third Avenue (Normandie Court), NY, NY. Given the extraordinary circumstances regarding the need for service, any delay in the institution of temporary operation would seriously prejudice the public interest.

Pursuant to Section 94.43(c) of the Commission's Rules, the following is submitted:

**1. Name, Address and Citizenship of Applicant**

Liberty Cable Co., Inc.  
215 E. 95th Street  
New York, NY 10128  
ATTN: Behrooz Nourain

New York Corporation

**2. Need for Special Action**

On November 7, 1994 (File No. 708779), Liberty filed the above-referenced application to modify its 18 GHz station at Normandie Court. It was later amended on February 21, 1995 and March 21, 1995. Liberty's application in File No. 708779 proposes to add a total of five new microwave paths. The 30 day public notice period expired for this application on January 8, 1995. Grant of the applications has been severely hampered because of processing delays and because of a petition to deny filed by Time Warner Cable of New York and Paragon Cable of Manhattan (collectively, "Time Warner").

Liberty is a private cable or SMATV operator serving approximately 30,000 subscribers who live mainly in buildings in the New York metropolitan area. In the vast majority of cases, Liberty provides service pursuant to the Commission's action in Operational Fixed Microwave Service (Video Distribution System), 6 FCC Rcd. 1270 (1991) ("the 18 GHz Order") through microwave channels in the 18,142 - 18,580 band ("the 18 GHz band"). When the 18 GHz Order granted private cable operators access to the 18 Ghz band, the Commission voiced its conviction that the public interest was well served by allowing competition in the video services marketplace through wireless cable operators. The Commission said:

---

<sup>1/</sup> The application under File No. 708779 was originally filed under call sign WNTT378. Since that time, the Commission has consolidated all previous call signs for the Normandie Court site under call sign WNTM385.

After carefully reviewing the record, we conclude that adoption of this proposal, . . . , will promote the public interest by encouraging competition in the video distribution marketplace. The need for such action is well documented. This Commission recently conducted a review of marketplace developments in the video distribution industry in which we concluded that cable systems possess a disproportionate share of market power and, therefore, are capable of engaging in anti-competitive conduct. In these circumstances, competition provides the most effective safeguard against the specter of market power abuse. As competition from alternative multichannel providers such as second competitive cable operators, wireless cable multi-point distribution services, SMATV systems, and direct broadcast satellite ("DBS") emerges, we find that it would serve the public interest to enhance their competitive potential. 6 FCC Rcd. at 1271, para. 9.

The Commission also said:

In conclusion, cable systems increasingly dominate the multichannel video delivery services, resulting in criticism of the industry and complaints of anti-competitive conduct. Although rival multichannel providers are emerging in the marketplace, we recognize the need for action designed to encourage these operators to enter the market and to increase their market viability. To improve the competitive potential of alternative multichannel providers eligible to hold licenses in the Operation-Fixed Microwave Service, we take action in this proceeding permitting the use of the 6 MHz wide, point-to-point channels in the 18 GHz band for the distribution of video entertainment material. We also amend our rules to eliminate the restriction on the number of channels that may be assigned for this purpose. This action serves the public interest by encouraging the growth of competitive alternatives to cable systems and by providing consumers with a diverse range of video distribution service. In addition, the action taken herein furthers the best interests of the public by promoting spectrum efficiency and increasing the flexibility of licenses. 6 FCC Rcd. at 1272, para. 16.

Furthermore, in its 1994 report to Congress on the status of competition in this marketplace, the Commission makes clear that little has changed in the way of competition; cable is still king. In sum, the public interest is well served by the promotion of competition by wireless cable operators in the video services marketplace.

The Commission action in opening the 18 GHz band to wireless cable operators has achieved its goal in that it has stimulated competition to incumbent cable monopolists. Liberty is competing head-to-head with Time Warner in Manhattan using the 18 GHz band. To compete effectively with Time Warner, Liberty must convert

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### **3. Type of Operation**

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### **4. Purpose of Operation**

The equipment will be used to distribute applicant's own products or services, including video entertainment programming, to private cable buildings on frequencies in the 18,142-18,580 MHz band.

**5. Time and Date of Operation Desired**

Liberty requests authority for twenty-four (24) hour operation pending action on the application for license and requests that such authority begin on the tenth day following the filing of this request for special temporary authority.

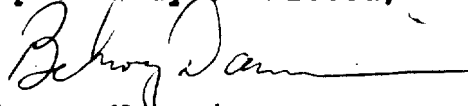
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Please address all correspondence regarding this matter to Liberty's counsel, Michael J. Lehmkuhl, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 as well as the undersigned.

Respectfully submitted,



Behrooz Nourain  
Director of Engineering

Date: May 3, 1995

**FEDERAL COMMUNICATIONS COMMISSION**  
**1270 Fairfield Road**  
**Gettysburg, PA 17325-7245**

**ATTACHMENT - Explanation of Numbers Shown on Stamp**

Please note the following with respect to your recent request.

6. Associate this authorization with all appropriate station records. A new license will not be issued.

7. This authority is conditioned on our receipt, within 10 days, of a copy of the STA request bearing the original signature of the applicant.

8. This authority is conditioned on our receipt, within 10 days, of proper payment in the amount of \$\_\_\_\_\_. This required fee and FCC Form 159 must be sent to the address identified in the fee guide for the appropriate radio service.

10. Subject to ET Docket 92-9 which includes operation on a secondary, non-interference basis.

11. The antenna(s) may be no more than twenty (20) feet above the ground or manmade structure other than a tower or pole, or must be mounted on a structure that complies with an existing and approved Federal Aviation Administration Final Determination.

12. This facility may not cause interference to any authorized Mexican communication system and authority to operate is granted on a secondary, non-interference basis only. As a condition of grant, you are required to notify the Engineer in Charge or the appropriate Commission Field office when this station is initially placed in service, and at subsequent times when any operating parameter affecting its interference potential is changed.

13. Operation under this Special Temporary Authority may not cause interference to any authorized Canadian communication system and authority to operate is on a secondary, non-interference basis only.

99. OTHER: This authority is subject to final resolution of Time Warner's petitions to deny the underlying applications and any other appropriate action the Commission may take against Liberty in the future. This STA may be terminated by the Commission at will and without a hearing. All STAs are conditioned on Liberty's future compliance with all applicable Commission rules.



**PEPPER & CORAZZINI**

**L. L. P.**

**ATTORNEYS AT LAW**

**200 MONTGOMERY BUILDING**

**1776 K STREET, NORTHWEST**

**WASHINGTON, D. C. 20006**

**(202) 296-0600**

**GREGG P. SKALL**

**E. THEODORE MALLYCK**

**OF COUNSEL**

**FREDERICK W. FORD**

**1909-1986**

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**LOUISE CYBULSKI \***

**L. CHARLES KELLER \***

**MICHAEL J. LEHMKUHL \***

**SUZANNE C. SPINK \***

**\* NOT ADMITTED IN D.C.**

**May 4, 1995**

**BY COURIER**

**Federal Communications Commission  
Feeable Correspondence  
P.O. Box 358305  
Pittsburgh, PA 15251-5305**

**Re: Liberty Cable Co., Inc.  
Request for Special Temporary Authority  
155 East 31st Street (Windsor Court)  
FCC File No. 708780, Call Sign WNTT555**

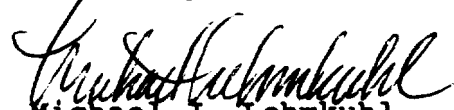
**Dear Sir or Madam:**

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Enclosed is a check made out to the Federal Communications Commission in the amount of \$45.00 to cover the necessary filing fees.

Questions with respect to this matter should be referred to the undersigned.

Sincerely,



**Michael J. Lehmkuhl  
Attorney for  
Liberty Cable Co., Inc.**

**Enclosures**

**cc: Mr. Michael Hayden (FCC, Fed Ex)  
Arthur H. Harding, Esq. (counsel for Time Warner)  
Mr. Behrooz Nourain**

**FEDERAL COMMUNICATIONS COMMISSION  
1270 Fairfield Road  
Gettysburg, PA 17325-7245**

**ATTACHMENT - Explanation of Numbers Shown on Stamp**

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6. Associate this authorization with all appropriate station records. A new license will not be issued.

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11. The antenna(s) may be no more than twenty (20) feet above the ground or manmade structure other than a tower or pole, or must be mounted on a structure that complies with an existing and approved Federal Aviation Administration Final Determination.

12. This facility may not cause interference to any authorized Mexican communication system and authority to operate is granted on a secondary, non-interference basis only. As a condition of grant, you are required to notify the Engineer in Charge or the appropriate Commission Field office when this station is initially placed in service, and at subsequent times when any operating parameter affecting its interference potential is changed.

13. Operation under this Special Temporary Authority may not cause interference to any authorized Canadian communication system and authority to operate is on a secondary, non-interference basis only.

99. OTHER: This authority is subject to final resolution of Time Warner's petitions to deny the underlying applications and any other appropriate action the Commission may take against Liberty in the future. This STA may be terminated by the Commission at will and without a hearing. All STAs are conditioned on Liberty's future compliance with all applicable Commission rules.

FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**

Approved by OMB  
 3060-0589  
 Expires 2/28/97

PAGE NO. 1 OF       

(RESERVED)

SPECIAL USE

FCC/MELLON MAY 04 1995 *DSL*

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER										Did you have a number prior to this? Enter it.										(2) TOTAL AMOUNT PAID (dollars and cents)									
0133696802																				\$ 45.00									
(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)																													
Liberty Cable Co., Inc.															cc: Michael J. Lehmkuhl, Esquire Pepper & Corazzini, L.L.P.														
(4) STREET ADDRESS LINE NO. 1															1776 K Street, N.W., Suite 200														
215 East 95th Street, Suite 1A															Washington, DC 20006														
(5) STREET ADDRESS LINE NO. 2															(202) 296-0600														
(6) CITY															(7) STATE					(8) ZIP CODE									
New York															NY					10028									
(9) DAYTIME TELEPHONE NUMBER (Include area code)															(10) COUNTRY CODE (if not U.S.A.)														
(212) 891-7770																													

**ITEM #1 INFORMATION**

(11) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR															FCC USE ONLY														
(12A) FCC CALL SIGN/OTHER ID										(13A) ZIP CODE					(14A) PAYMENT TYPE CODE					(15A) QUANTITY					(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14				
WNTM555															P A O M					1					\$ 45.00				
(17A) FCC CODE 1															(18A) FCC CODE 2														
(19A) ADDRESS LINE NO. 1										(20A) ADDRESS LINE NO. 2										(21A) CITY/STATE OR COUNTRY CODE									

**ITEM #2 INFORMATION**

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR															FCC USE ONLY														
(12B) FCC CALL SIGN/OTHER ID										(13B) ZIP CODE					(14B) PAYMENT TYPE CODE					(15B) QUANTITY					(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14				
																									\$				
(17B) FCC CODE 1															(18B) FCC CODE 2														
(19B) ADDRESS LINE NO. 1										(20B) ADDRESS LINE NO. 2										(21B) CITY/STATE OR COUNTRY CODE									

**CREDIT CARD PAYMENT INFORMATION**

(2) **MASTERCARD/VISA ACCOUNT NUMBER:**

☐ Mastercard ☐ Visa

EXPIRATION DATE:

(23) I hereby authorize the FCC to charge my VISA or Mastercard

AUTHORIZED SIGNATURE  DATE

fic

**Special Temporary Authority**  
**FCC File No. 708780**  
**OFS Station WNTM555<sup>1/</sup>**

WNTY375

Liberty Cable Co., Inc. ("Liberty") respectfully requests special temporary authority pursuant to Section 94.43 of the Commission's Rules to operate an 18 GHz operational-fixed microwave service ("OFS") station at 155 East 31st Street (Windsor Court), NY, NY. Given the extraordinary circumstances regarding the need for service, any delay in the institution of temporary operation would seriously prejudice the public interest.

Pursuant to Section 94.43(c) of the Commission's Rules, the following is submitted:

1. Name, Address and Citizenship of Applicant

7140-09

TO 200 E. 27<sup>th</sup> TO 201 E. 17<sup>th</sup>  
TO BILTMORE P → E. 32<sup>nd</sup>  
Liberty Cable Co., Inc.  
215 E. 95th Street TO NYU Resident  
New York, NY 10128 TO NYU GREENBURG  
ATTN: Behrooz Nourain TO 200 E. 32<sup>nd</sup>  
New York Corporation TO 140 E. 28<sup>th</sup>  
TO 300 E. 33<sup>rd</sup>

<b>GRANTED</b>	
SEE ATTACHED: <u>1199</u>	
9/7/95	11/7/96
EFFECTIVE	VALID THROUGH
BY: <i>Michael B. Smith</i> CHIEF, MICROWAVE BRANCH	

2. Need for Special Action

TO 100 UN PLAZA

On November 7, 1994 (File No. 708780), Liberty filed the above-referenced application to modify its 18 GHz station at Windsor Court. It was amended on March 21, 1995 and March 23, 1995. Liberty's application in File No. 708780 proposes to add a total of three new microwave paths. The original public notice period expired January 8, 1995 although the subsequent amendments have not yet appeared on public notice. Grant of the applications has been severely hampered because of processing delays and because of a petition to deny filed by Time Warner Cable of New York and Paragon Cable of Manhattan (collectively, "Time Warner").

Liberty is a private cable or SMATV operator serving approximately 30,000 subscribers who live mainly in buildings in the New York metropolitan area. In the vast majority of cases, Liberty provides service pursuant to the Commission's action in Operational Fixed Microwave Service (Video Distribution System), 6 FCC Rcd. 1270 (1991) ("the 18 GHz Order") through microwave channels in the 18,142 - 18,580 band ("the 18 GHz band"). When the 18 GHz Order granted private cable operators access to the 18 GHz band, the Commission voiced its conviction that the public interest was well served by allowing competition in the video services marketplace through wireless cable operators. The Commission said:

<sup>1/</sup> The applications under File No. 708780 were originally filed under call sign WNTT406. Since that time, the Commission has consolidated all previous call signs for the Windsor Court site under call sign WNTM555.

After carefully reviewing the record, we conclude that adoption of this proposal, ..., will promote the public interest by encouraging competition in the video distribution marketplace. The need for such action is well documented. This Commission recently conducted a review of marketplace developments in the video distribution industry in which we concluded that cable systems possess a disproportionate share of market power and, therefore, are capable of engaging in anti-competitive conduct. In these circumstances, competition provides the most effective safeguard against the specter of market power abuse. As competition from alternative multichannel providers such as second competitive cable operators, wireless cable multi-point distribution services, SMATV systems, and direct broadcast satellite ("DBS") emerges, we find that it would serve the public interest to enhance their competitive potential. 6 FCC Rcd. at 1271, para. 9.

The Commission also said:

In conclusion, cable systems increasingly dominate the multichannel video delivery services, resulting in criticism of the industry and complaints of anti-competitive conduct. Although rival multichannel providers are emerging in the marketplace, we recognize the need for action designed to encourage these operators to enter the market and to increase their market viability. To improve the competitive potential of alternative multichannel providers eligible to hold licenses in the Operation-Fixed Microwave Service, we take action in this proceeding permitting the use of the 6 MHz wide, point-to-point channels in the 18 GHz band for the distribution of video entertainment material. We also amend our rules to eliminate the restriction on the number of channels that may be assigned for this purpose. This action serves the public interest by encouraging the growth of competitive alternatives to cable systems and by providing consumers with a diverse range of video distribution service. In addition, the action taken herein furthers the best interests of the public by promoting spectrum efficiency and increasing the flexibility of licenses. 6 FCC Rcd. at 1272, para. 16.

Furthermore, in its 1994 report to Congress on the status of competition in this marketplace, the Commission makes clear that little has changed in the way of competition; cable is still king. In sum, the public interest is well served by the promotion of competition by wireless cable operators in the video services marketplace.

The Commission action in opening the 18 GHz band to wireless cable operators has achieved its goal in that it has stimulated competition to incumbent cable monopolists. Liberty is competing head-to-head with Time Warner in Manhattan using the 18 GHz band. To compete effectively with Time Warner, Liberty must convert

buildings from Time Warner's service to Liberty's service after subscribers in those buildings have elected to switch from Time Warner to Liberty. If Liberty cannot meet its potential customers' demand for its service, those potential customers will cancel their contracts with Liberty and remain with Time Warner. It is hard to blame them.

A series of occurrences where Liberty fails to deliver its service within 30 days and where potential customers cancel their subscriptions to Liberty's service will immeasurably damage Liberty's business and reputation. Of course, it will also greatly damage the Commission's ability to fulfill its goal of bringing competition to the video marketplace, at least in the short term in Manhattan.

Time is, therefore, of the essence. Any further delay in the consideration of the aforementioned applications is a disservice to the public interest because it seriously undermines Liberty's ability to deliver service, to compete and to be economically viable. Delay gravely threatens Liberty's ability to remain in business. Time Warner realizes this fact and has filed a petition to deny grant of the aforesaid applications. Time Warner's petition has seriously hampered a timely grant of the application.

Liberty fully supports Time Warner's right to voice its objections to Liberty's applications and to have the Commission decide its petition to deny. However, Liberty believes that the Commission must strike a balance between Time Warner's right to be heard on its objections with the public's right to receive service in a timely manner and the public's right to the lower prices which competition brings. Liberty believes that such a balance can be struck if the Commission conditionally grants the instant STA subject to the Commission's decision in the Time Warner petition to deny. Since Liberty's applications are in technical order, and since Time Warner has not challenged Liberty's applications on a technical basis, and since the conditional grant of the STA requested herein will not prejudice in any way Time Warner's right to be heard on its objections to the Liberty applications or the Commission's ability to decide the petition to deny, Liberty submits that the institution of an STA as requested herein is very much in the public interest and should be granted immediately.

### **3. Type of Operation**

Fixed transmission of video and audio signals in the 18 GHz band.

### **4. Purpose of Operation**

The equipment will be used to distribute applicant's own products or services, including video entertainment programming, to private cable buildings on frequencies in the 18,142-18,580 MHz band.

**5. Time and Date of Operation Desired**

Liberty requests authority for twenty-four (24) hour operation pending action on the application for license and requests that such authority begin on the tenth day following the filing of this request for special temporary authority.

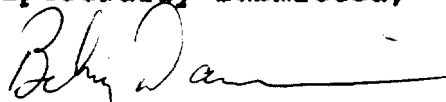
**6-12. Technical Information**

Liberty will operate the station in conformance with the technical specifications outlined in the referenced application(s).

Liberty certifies that no party to the application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, codified at 21 U.S.C. Section 862.

Please address all correspondence regarding this matter to Liberty's counsel, Michael J. Lehmkuhl, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 as well as the undersigned.

Respectfully submitted,



Behrooz Nourain  
Director of Engineering

Date: May 3, 1995

PEPPER & CORAZZINI

L. L. P.

ATTORNEYS AT LAW

200 MONTGOMERY BUILDING

1776 K STREET, NORTHWEST

WASHINGTON, D. C. 20006

(202) 296-0600

GREGG P. SKALL

E. THEODORE MALLYCK

OF COUNSEL

FREDERICK W. FORD

1909-1986

TELECOPIER (202) 296-5572

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ROBERT F. CORAZZINI  
TER GUTMANN  
N. F. GARZIGLIA  
L. J. FRIEDMAN  
ELLEN S. MANDELL  
HOWARD J. BARR  
LOUISE CYBULSKI •  
L. CHARLES KELLER •  
MICHAEL J. LEHMKUHL •  
SUZANNE C. SPINK •  
• NOT ADMITTED IN D. C.

May 4, 1995

**BY COURIER**

Federal Communications Commission  
Feeable Correspondence  
P.O. Box 358305  
Pittsburgh, PA 15251-5305

**Re: Liberty Cable Co., Inc.  
Request for Special Temporary Authority  
205 East 64th Street (Bristol Plaza)  
FCC File No. 708781, 709426, and 711937,  
Call Sign WNTM212**

Dear Sir or Madam:

Transmitted herewith, on behalf of Liberty Cable Co., Inc. ("Liberty") is an original and one (1) copy of a request for special temporary authority ("STA") for the above referenced facility.

Enclosed is a check made out to the Federal Communications Commission in the amount of \$45.00 to cover the necessary filing fees.

Questions with respect to this matter should be referred to the undersigned.

Sincerely,



Michael J. Lehmkuhl  
Attorney for  
Liberty Cable Co., Inc.

Enclosures

cc: Mr. Michael Hayden (FCC, Fed Ex)  
Arthur H. Harding, Esq. (counsel for Time Warner)  
Mr. Behrooz Nourain



FEDERAL COMMUNICATIONS COMMISSION  
**FCC REMITTANCE ADVICE**

Approved by OMB  
3060-0589  
Expires 2/28/97

PAGE NO. 1 OF       

(RESERVED)

SPECIAL USE

FCC/MELLON MAY 04 1995

FCC USE ONLY

(Read instructions carefully BEFORE proceeding.)

**PAYOR INFORMATION**

(1) FCC ACCOUNT NUMBER										Did you have a number prior to this? Enter it.										(2) TOTAL AMOUNT PAID (dollars and cents)									
0133696802																				\$ 45.00									
(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)																													
Liberty Cable Co., Inc.															cc: Michael J. Lehmkuhl, Esquire Pepper & Corazzini, L.L.P.														
(4) STREET ADDRESS LINE NO. 1															1776 K Street, N.W., Suite 200														
215 East 95th Street, Suite 1A															Washington, DC 20006														
(5) STREET ADDRESS LINE NO. 2															(202) 296-0600														
(6) CITY															(7) STATE					(8) ZIP CODE									
New York															NY					10028									
(9) DAYTIME TELEPHONE NUMBER (Include area code)															(10) COUNTRY CODE (if not U.S.A.)														
(212) 891-7770																													

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**CREDIT CARD PAYMENT INFORMATION**

(22) MASTERCARD/VISA ACCOUNT NUMBER:

<input type="checkbox"/> Mastercard	<input type="checkbox"/> Visa
<input type="checkbox"/>	<input type="checkbox"/>

EXPIRATION DATE: ☐ ☐ ☐ ☐

Month Year

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein described.

AUTHORIZED SIGNATURE

DATE

021